

Drugs on the Border: The Role of the Military

DALE E. BROWN

It was a twin-engined Beech, Captain Winters saw, the most common aircraft used by the druggies. . . . He pulled his F-15 level behind it, about half a mile back. This was the eighth time he'd intercepted a drug runner, but it was the first time he'd been allowed to do something about it. . . . When he got within four hundred yards, his finger depressed the button for a fraction of a second. A line of green tracers lanced through the sky. Several rounds appeared to miss the Beech ahead, but the rest hit right in the cockpit area. He heard no sound from the kill. . . . Winters reflected briefly that he had just killed one man, maybe two. That was all right. They wouldn't be missed.

—From *Clear and Present Danger* by Tom Clancy.

Mention military involvement in counter-drugs, and the scenario above may provide the sort of images that come to the average American's mind. Bloody, violent acts committed against culpable drug smugglers are the stuff of best-selling fiction, but they are just that—fiction. The reality of military support is not so dramatic, but it constitutes a solid contribution to law enforcement and valuable, real-world training for the participating units. This is true wherever the military is involved and especially on the Southwest land border.

Although the military has provided counter-drug support for a number of years, the issue came to the fore in the fall of 1989 when President Bush declared drug abuse to be the gravest domestic problem facing our nation and a threat to the national security. These sentiments were seconded by Secretary of Defense Cheney, who declared, "The detection and countering of the production, trafficking, and use of illegal drugs is a high priority national security mission of the Department of Defense."¹ Cheney further charged the military's major commanders with hemispheric responsibilities to draft plans on how they could contribute to the counter-drug effort. That these statements

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were reaffirmed one year later in the midst of Desert Shield is testament to their enduring importance and a tocsin call for military support.

The danger that drugs pose to our nation needs little elaboration. A report by a congressional subcommittee headed by Congressman Nicholas Mavroules concluded, "The chief threat to our national security in the 1990s may well come from hoards of red tomato cans [filled with cocaine, an actual smuggling technique] rather than hordes of Red communists."² Stories about drug-related violence and human tragedy have filled our newspapers and local newscasts in recent years. The cocaine-related deaths of sports superstars Len Bias and Don Rogers and the theater of Washington Mayor Marion Barry's drug trial have captured the nation's attention. Accounts of hundreds of violent drug-related murders have compounded the horror. What should be done about the drug problem, however, is a matter of continuing debate. The President's drug control strategy has two facets: diminish the demand for drugs and eliminate their supply. With regard to diminishing demand within the military community itself, much has been accomplished through the DOD's demand-reduction education program and its progress with random urinalysis; yet military support of the President's strategy is almost entirely focused on the second facet—eliminating supply. No military authority believes elimination of supply is the definitive answer, but interdiction of the drug flow is the measure to which military assets are most applicable.

Troops on the Border

Someone once asked notorious bank robber Willie Sutton why he robbed banks; said Sutton, "Because that's where the money is." The reason for providing military counter-drug support along the Southwest land border of the United States is just as plain. That's where the drugs are. Largely because of successful interdiction efforts in the Caribbean, the drug flow has shifted to Mexico for transshipment to the United States. Customs recently broke up a cocaine smuggling ring in Houston that was shipping the drug to Miami; the cocaine-stuffed duffel bags were wet and muddy, indicating that they had been dragged across the Rio Grande. Most of the current US cocaine supply is believed to flow from Mexico as well as a good deal of US-consumed marijuana and a significant amount of heroin. Cocaine seizures by Southwest law enforcement agencies increased from 31,000

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pounds in 1987 to 49,000 pounds in 1990; marijuana confiscations ballooned to more than a million pounds over the same period.³ The sparsely populated stretches of the border states are also favorable for domestic marijuana cultivation and methamphetamine production. The warm climate provides a prolonged growing season, and the distinctive odor of methamphetamine production can easily escape detection in the vast public lands of the Southwest. Also, production of these drugs on public land makes it easier to avoid property confiscation laws.

The sheer length of the border—2000 miles—makes law enforcement difficult. To appreciate the problem, consider that at any given moment there is roughly the same number of law enforcement officers riding the New York City subway as there are Border Patrolmen on watch along the Mexican border. Customs officials face similar obstacles of scale; an inspector at a port of entry has only seven seconds to decide whether a vehicle merits closer inspection. At the nation's busiest port of entry, San Ysidro, California, 13 million vehicles cross annually.⁴

The importance and magnitude of the Southwest border threat has been recognized for a number of years. In 1986 then-Vice President George Bush, as head of the National Narcotics Border Interdiction System, and US Attorney General Edwin Meese III, chairman of the National Drug Policy Board, announced the launching of Operation Alliance to halt the flow of all contraband across the US-Mexico border. Operation Alliance does not prevent single-agency initiatives, but it stresses the need to coordinate the efforts of federal, state, and local agencies to stop the flow of illegal firearms, criminal funds, and other contraband as well as drugs. Early in 1990 the Southwest border area was designated a High-Intensity Drug Trafficking Area along with Houston, Los Angeles, New York, and Miami. With this designation came increased resources for law enforcement agencies.

Military support comes from all components of the Department of Defense. It is categorized into three areas: Title 10 forces (active duty and Reserve forces), Title 32 (National Guard), and logistical support through four regional offices.

DOD counter-drug involvement encompasses a number of major commands. Atlantic Command and Pacific Command have their own joint task forces—JTF-Four (Key West, Florida) and JTF-Five (Alameda, California)—which conduct aerial and maritime surveillance along the nation's coasts. Southern Command directs efforts to eliminate drugs at their Latin American sources through foreign military support and intelligence analysis. For example, SOUTHCOM provided 49 mobile training teams and managed the delivery of \$65 million worth of military equipment to Colombia in FY 90. An additional \$53 million has since been directed to Colombia and six other Latin American nations. (Questions have been raised in the press, however, about whether this

aid is being used for counterinsurgency instead of counter-drug efforts.) North American Air Defense Command has contributed greatly to air interdiction through the use of its mobile ground radar units and AWACS surveillance assets; at one point in FY 90, 48 percent of all AWACS flying hours worldwide were devoted to counter-drugs. These assets are used to supplement a series of radar-carrying aerostats (tethered blimps) integrated into Customs control facilities. Actual intercept, however, is the province of the air branch of Customs.

The National Guard plays an important role in its capacity as a state militia. This status gives it certain powers not available to the active military, notably border inspection authority. Inspection of cargo at the nation's ports of entry is a time-consuming, manpower-intensive enterprise. With the Guard's help, Customs is now able to examine 14 percent of containers originating from cocaine source or transit countries, a near threefold increase from FY 89.

Marijuana eradication is another significant Guard contribution. The Guard's FY 89 work in this regard netted over four million plants with a street value of at least \$8 billion. Since eradication is not legally limited to the Guard, future missions will probably involve active duty forces. Yet such operations are not without controversy. A 1990 California eradication mission, Operation Greensweep, provoked an outcry from the local citizenry and a pending \$100 million lawsuit. But eradication missions carry the strong political message to Latin American countries that the United States is willing to use military force to eliminate domestic drug production, the same thing we are asking them to do.

All told, the National Guard contributed 532,899 man-days to the counter-drug effort while conducting 5155 missions in FY 90. There are limits, however, to the Guard's utility. Each state ordinarily can bring to bear only those types of assets that happen to comprise its force structure; New Mexico, for example, has no infantry or engineer units. This is one reason why active duty and Reserve forces are invaluable complements to the counter-drug campaign along the Southwest border.

Law enforcement agencies have a great need for military equipment with counter-drug applications. Items in greatest demand include secure radio gear and night-vision devices, but less glamorous equipment such as fuel pods are equally important. Loan of such items is coordinated by four Regional Logistics Support Offices nationwide. These offices also coordinate use of DOD facilities.⁵

JTF-Six Support

Joint Task Force Six was formed in November 1989 at Fort Bliss, Texas, to plan and coordinate active duty and Reserve military support to civilian law enforcement agencies along the Southwest land border. The 129-member military and civilian staff encompasses all four uniformed services and

includes liaison personnel from the Border Patrol, Customs, and the Drug Enforcement Administration. Its area of responsibility mirrors Operation Alliance, that being Texas, New Mexico, Arizona, and California as far north as Fresno.

JTF-Six support involves numerous activities and a wide spectrum of DOD units and capabilities. Support must meet legal scrutiny and, unless the requesting law enforcement agency will pay for the support or obtain special DOD funding, it must constitute bona fide military training. Only support requested by law enforcement agencies is provided; nothing is done unilaterally.

Reconnaissance operations are the most frequently requested form of support, and border areas are observed in a variety of ways. Manned observation posts are commonly provided. In all cases where a confrontation with potential smugglers is likely, soldiers or Marines are accompanied by members of the law enforcement agency requesting the support. DOD participants have no part in the subsequent seizure or arrest. While drug smuggling is possible anywhere along the 2000-mile border, there are specific routes located mostly in remote mountainous areas that have been smugglers' conduits to the north for centuries. These areas are ideal for use of trained recon elements such as Army Special Forces and Marine Recon teams with night-vision devices and long-range optics. Observation posts are both inexpensive and effective; they have successfully detected smuggling along the length of the border.

Remotely monitored sensors such as Army REMBASS and Marine SCAMP⁶ are used to supplement existing law enforcement agencies' sensors; the relatively small number of military sensor units are in great demand because they have proven to be an effective way to monitor large portions of



A 7th Infantry Division soldier keeps watch during a terrain denial operation in the boot heel of New Mexico, about two kilometers from the Mexican border.

the border area. A recently concluded sensor operation along the Texas border, for example, netted 15 drug seizures.

Relatively flat areas of the border provide excellent terrain for ground surveillance radar operations. A small number of radar teams can cover large border stretches, relying for example on the PPS-5 and 15 ground surveillance radars. Suspicious activity can be observed at relatively long range, giving law enforcement authorities ample reaction time.

Aerial reconnaissance is another useful form of support. Observation is accomplished by both fixed-wing and rotary assets and, on one mission, by a Marine Remotely Piloted Vehicle unit. The RPV was credited with aiding in the seizure of a truck loaded with more than a ton of marijuana. Aircraft with infrared detection systems are especially useful in the search for heat-producing methamphetamine labs, commonly found in the sparsely populated public lands in the border area. Six hundred lab sites were found in 1990 in California alone; the production chemicals also pose a significant toxic waste threat. Slow-flying helicopters are a useful tool for finding marijuana plots in the national forests; the choppers are an integral part of eradication campaigns such as the previously mentioned Greensweep and a highly successful sister operation in western Oregon, Operation Ghost Dancer.

Intelligence analysis is another valuable aspect of military assistance. Fusion of numerous intelligence sources is common in the military, but it is often beyond the resources and experience of law enforcement agencies. Military training teams instruct the law officers in analysis techniques as well as performing the procedures in specific instances. The proximity of the El Paso Intelligence Center, a repository of worldwide drug smuggling data headed by the Drug Enforcement Administration, is fortuitous in this regard. Military analysts working with law enforcement officials have been successful at using multiple sources of perishable intelligence to alert local agencies to expected border drug crossings. Care is taken not to maintain intelligence on US citizens, action that is forbidden by intelligence oversight laws. Similarly, military translators listen only to tapes of wiretaps, not to the actual conversations. Spanish translation is another highly prized form of military support for law enforcement. Lack of detailed border topographical products, a necessity for operational planning, has hampered law enforcement agencies in the past; the military has now filled part of this void with aerial photography and by updating outdated maps during ground reconnaissance missions.

Engineer support is not as glamorous as contributing directly to the arrest of drug smugglers, but it has proven to be an equally valuable form of aid. For example, the Laredo Border Patrol uses remotely monitored cameras to watch the Rio Grande. Over the years, scrub brush had grown so high as to obscure the view. An Army engineer company from Fort Carson was called on to clear away the brush; it additionally created 120 miles of road that could

be monitored for illegal crossing activity. Another useful engineer project is repair of the San Diego border fence. While the simple act of welding panels made of pierced steel planking (the PSP used for temporary aircraft runways) was termed "fortification of the border" by civil rights groups, it stopped potential smugglers as well as illegal border-crossers in an area where roving packs of bandits routinely robbed and raped *campesinos*. The intent of the project was to channel immigrants to legal ports of entry.

Military transportation assets are also frequently requested by law enforcement agencies. Helicopters are especially useful for transporting agents to hard-to-reach areas of the Southwest border. Fixed-wing aircraft are used to transport large quantities of contraband.

Perhaps the most celebrated example of military support was the assistance rendered in the discovery of the Douglas, Arizona, drug tunnel. Customs officials had long suspected the existence of a tunnel under the border, but lacked sufficient evidence to justify search warrants. They requested assistance through Operation Alliance. It turned out that the Army had a long-standing interest in tunnel detection because of its experiences along the Korean border. Once the military team arrived on the scene in March 1990, it was only a matter of hours before the tunnel location was pinpointed. Subsequent search of a warehouse in Douglas by Customs authorities revealed a tunnel leading to the owner's residence in Mexico. The terminus was under a pool table raised from the floor by a hydraulic lift, a sophisticated device indicative of the smuggler's extensive resources. A search by Mexican authorities yielded two tons of cocaine and 14 tons of marijuana. The tunnel was thought to have been in use for two years and might still be a principal drug conduit if not for military involvement.

When military intervention in counter-drugs was first discussed, then-FORSCOM commander General Colin Powell envisioned deterrence of drug smuggling by units conducting normal training along the border. This idea has evolved into a concept known as terrain denial, whereby battalion-sized elements conduct primary mission training in proximity to the border. The concept entails no direct counter-drug effort, but the unit's presence alone disrupts the smuggler's patterns. Meanwhile the deployment process as well as the unfamiliar terrain and desert environment present excellent training opportunities for participating units.

The types of military support recapitulated above are by no means all-inclusive. As law enforcement agencies discover the availability of military support, new ways for DOD to aid in the counter-drug effort are continually found. Tunnel detection, for example, was probably not in anyone's mind when Secretary Cheney announced DOD's entry into the drug fray. All told, JTF-Six received over 550 requests for military support from law enforcement agencies in the past fiscal year.

Military Limitations

Military support is not without its limitations. Foremost, one must keep in mind that counter-drug work is not the military's primary mission, and a tenet of counter-drug assistance is that it must not interfere with the military's first priority.

The principal legal limitation on military support is the Posse Comitatus Act. This 1878 law, as subsequently amended, reads as follows:

Whoever, except in cases and under circumstances expressly authorized by the Constitution or Act of Congress, willfully uses any part of the Army or the Air Force as a posse comitatus or otherwise to execute the laws shall be fined not more than \$10,000 or imprisoned not more than two years, or both.

Simply put, the law prohibits active-duty service members or Reserves from performing law enforcement functions of search, seizure, or arrest. Although the Navy is not specifically mentioned (the original 1878 law was a rider to an Army appropriations bill), DOD policy applies it to the Navy and Marine Corps. No commander has been convicted of violating Posse Comitatus, but unlawful military involvement has been used as a defense in several trials. The Posse Comitatus prohibition is not absolute. Congress has made a number of authorized exceptions whereby the President can order military involvement in otherwise prohibited activities. The most widely known exception has been the authority to enforce civil rights laws. This was the provision used by President Eisenhower in 1957 to enforce the integration of public schools in Little Rock, Arkansas. Two other exceptions permitted the President to use the military to prevent unlawful introduction of persons or things into Indian country and to enforce quarantine laws along coastal boundaries,⁷ powers that could have tangential application to counter-drugs.

Another legal constraint with significant counter-drug implications is the prohibition of active duty and Reserve entry onto private land without written permission of the owner. Half the land adjacent to the border is in private hands, including 90 percent of the Texas boundary. Just as was the case with the Douglas tunnel, smugglers can buy land on both sides of the border to facilitate illegal activities.

Another restraint lies in the omnipresent Mexican sensitivity to US military efforts, a sensitivity stoked at every turn by a sensationalist Mexican press. There is even a Museum of Foreign Interventions in Mexico City that purports to document numerous infringements of Mexican sovereignty by the United States. This sensitivity was recently roused by the TV mini-series about the Enrique Camarena murder and subsequent abduction to the United States of one of the case's alleged principals by Mexican bounty hunters from Mexican soil. There are groups of human-rights advocates in both Mexico and the United

States who view any military counter-drug support as "militarization of the border." This seems to be a code term for concern about military apprehension of illegal aliens (a term offensive to many of the human-rights advocates; news media along the border use the term "undocumented worker") and the potential for human-rights abuses, a frequent allegation in Latin American countries.

As previously noted in the Posse Comitatus discussion, the US military is prohibited from arresting anyone, searching anyone or anything, or seizing any personal property. Indeed, every effort is made to prevent military contact with suspected smugglers. At the same time, however, the military is required by law to report all potential violations of the law to the proper authorities. This is true for illegal crossing of the border as well as for poaching, the illegal discharge of firearms, and, in the case of one observation post incident, the stripping of a stolen car.

Operations near the border—marked by the Rio Grande in Texas and by a barbed wire fence, if that, in other states—receive special attention to prevent accidental border crossings by US personnel. Care is also taken to ensure that operations have no provocative appearance. Mexican cooperation is essential to the overall counter-drug campaign and US military support will not be allowed to endanger the total effort.

Prospects for the Future

In the short time that the active-duty military has been involved in counter-drug operations along the Southwest border, considerable progress has been made toward understanding law enforcement agencies' efforts and procedures. Support that expands these counter-drug efforts as well as providing realistic training has been rendered in a wide variety of areas. The support has been well-received by law enforcement officials and has fulfilled both of its intents. Yet much remains to be done.

Mexico is the linchpin for ultimate counter-drug success. Without Mexican support the situation closely parallels a low-intensity conflict in which the guerrilla has perfect sanctuary. The two years of the Salinas Administration have seen dramatic improvement in Mexican drug efforts. In 1990, for example, Mexican agents seized \$190 billion worth of drugs at a cost of 24 of their lives.⁸ The recent creation of Northern Border Response Teams ferried in US-provided helicopters is welcome. But smuggling is a time-honored profession along the border. The opinion among poor Mexicans that they are only providing what the *gringos* want is prevalent and will be hard to combat.

Law enforcement clearly needs more resources. More remote sensor assets are sorely needed and the aerostat system must be completed. Customs is not constrained from inspecting more cargo by a lack of personnel, but by cramped facilities; this problem would be exponentially compounded by the proposed free trade agreement between the United States and Mexico. A happy

medium between examination of incoming cargo, possibly by new sensing technology, and the free flow of commerce must be found. Helicopter-borne interdiction teams are needed to overcome the border's great length and to respond to sensor activations. Similarly, customs need more aircraft to respond to aerial intrusions detected by the aerostats and other sensors. Until law enforcement agencies have all the resources they need, there will be a place for the military along the border.

The current legal constraints on military support are in place for a very good reason: Americans have a distrust of military involvement in civil matters that dates to their ancestors and Oliver Cromwell. Yet Congress may decide that military counter-drug involvement merits legislative relief. If Congress can authorize military protection of guano deposits—an actual authorized Posse Comitatus exception—then permission to accompany law enforcement agents onto private land or to give active-duty forces authority to examine inbound cargo is distinctly possible. Decisions in such matters are in civilian hands; meanwhile, the military is committed to providing the best possible support under the existing conditions.

How is JTF-Six doing? The command has steadfastly refused to use a Vietnam-style “body count” of drug seizures as a measure of effectiveness. This policy was lauded by the Mavroules subcommittee.⁹ The value of military support is measured by its worth as perceived by law enforcement agencies and its training value for the participating military units. The deterrent value of military involvement in terms of disruption of the smuggler's patterns or forcing him to take riskier, less-profitable routes cannot be quantified.

The nation's fight against drugs will not be won overnight. It will take progress in reducing demand as well as in supply interdiction. But it's a fight that is vital to our nation's future well-being, and it's a fight that our military services can help our country to win.

NOTES

1. DOD News Release No. 461-90, 18 September 1990.
2. Congressional News Release, office of Les Aspin, 28 May 1990.
3. *El Paso Times*, p. G1, 11 November 1990. The 1990 figure is provided by the El Paso Intelligence Center.
4. Comparison provided by Border Patrol representative, US Border Patrol Museum, El Paso, Texas. There are just over 3700 Border Patrolmen throughout the entire nation, including the headquarters in Washington, D.C. Customs data are included in previously cited Aspin news release.
5. All figures in this section are from the previously cited DOD news release.
6. SCAMP (Sensor Control and Management Platoon) and REMBASS (Remotely Monitored Battlefield Surveillance System) assets are found in military intelligence units.
7. An excellent discussion of Posse Comitatus can be found in Clarence Meeks, “Illegal Law Enforcement: Aiding Civil Authorities in Violation of the Posse Comitatus Act,” *Military Law Review*, 70 (Fall, 1975), 83-136.
8. *El Paso Times*, p. B8, 28 December 1990.
9. Aspin news release.